

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kory Riley,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1690
Parcel No. 100/00076-000-000

On December 29, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Kory Riley was self-represented and did not appear at hearing. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr. to represent it. Neither party submitted new evidence. A digital recording of the proceedings was made. The Appeal Board now having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Kory Riley, owner of property located at 3910 Amick Avenue, Des Moines, Iowa appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$248,900; representing \$50,900 in land value and \$198,000 in building value. Riley protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In response to the protest, the Board of Review notified Riley the January 1, 2009, assessment would not change because market data indicates that the property is assessed at its fair market value.

Riley then appealed to this Board and reasserted the same ground. He also claimed the property is not equitably assessed as compared to other like property in the taxing district. This ground

was not raised before the Board of Review; as such we have no jurisdiction to consider it. Riley contends the correct value is \$234,400; previously before the Board of Review he claimed the value was \$230,000. We note \$234,400 was the property's 2007 assessment. Riley submitted an appraisal to both boards that valued the subject property at \$230,000.

According to the property record card, the subject property consists of a split-foyer design dwelling having 1413 total square feet of living area, and an 868 square-foot detached garage. The dwelling was built in 1975 and has a 3-10 quality grade. The record card indicates the garage was built in 1954. The subject is situated on 0.579 acres.

In the certified record, was an appraisal Riley submitted to the Board of Review. The appraisal by Janelle Jacobsen is dated December 18, 2008, and values the subject property at \$230,000. Although the appraisal date is not as of January 1, 2009, it is within weeks of the assessment date and we conclude the appraisal is reflective of the assessment date.

Jacobsen valued the subject property using the cost approach and the sales comparison approach. Her final estimate of value is \$230,000.

In the sales comparison approach, Jacobsen used three sales and two current listings; four properties were located in Des Moines and one was located in Johnston. Jacobsen notes that comparable one is located within blocks of the subject; comparable two is in the immediate vicinity; comparable three is not as reliable but sets an upper limit of value (it is located in Johnston); and she notes comparable listing 5 is in a predominantly older neighborhood. She notes comparable two is "given good consideration along with comparable one since they are within close proximity."

Jacobsen's net adjustments to the comparables sales and listings range from -10.5% to 13.6%, with an adjusted value range of \$221,500 to \$260,500. As previously noted, she believed the Johnston sale set the upper limit of the range of value and placed the most emphasis on comparable sales one and two, which had adjusted sales prices of \$242,500 and \$221,500 respectively. She concluded a

value between their indicated values was appropriate and valued the subject using the sales comparison approach at \$230,000.

Jacobsen also valued the subject property using the cost approach at \$258,800. She noted the cost approach was given some consideration, but the most weight was given to the sales comparison approach "since this reflects the decisions of actual buyers and sellers."

Like Riley, the Board of Review did not submit new evidence. In its certified record is an appraiser analysis, which comments on the Jacobsen appraisal. The analysis indicates two of the comparable properties in the Jacobsen appraisal are in different taxing districts than the subject property. It also comments that the comparables have "pretty high" adjustments. The analysis recommended no change to the Board of Review. The analysis stated the comparables it used by the Board of Review appraiser were better because they required fewer adjustments. However, by simply looking at the pictures of the properties it uses as comparables and the properties' descriptions, it does not appear that four of the properties are the best comparables. These properties are two-story homes. Instead, we agree with Jacobsen that the subject property is most comparable to ranch-style properties, not two-stories. Additionally, there is no explanation as to how the appraiser analysis comparables were selected other than their apparent proximity to the subject property. The sales used included two from 2006 and two from 2007. Only one sale was from 2008. Furthermore, the sales from 2006 include only minor time adjustments to the sales price. Without further explanation, we do not find this information reliable.

We find the appraisal data includes three comparable sales and two listings that are all in the same assessment jurisdiction. Further, we find Jacobsen reasonably relied on comparables one and two to determine the market value for the subject property. The Jacobsen appraisal is the most reliable evidence in the record and uses sales that are most comparable to the subject property. Therefore, we modify the assessment to reflect the appraisal value of \$230,000 for the January 1, 2009, assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

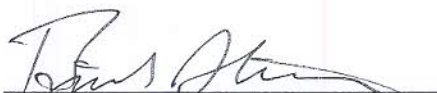
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Despite references in the record to the contrary, comparables sales do not need to be within a taxing district, nor the "assessor's geographical area." *Compiano v. Bd. of Review of Polk*

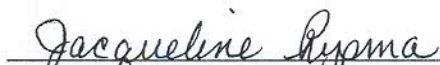
County, 771 N.W.2d 392, 398 (Iowa 2009) (quoting *Carlton Co. v. Bd. of Review*, 572 N.W.2d 146, 150 (Iowa 1997)). Jacobsen's appraisal uses three good comparable sales to determine the market value of the subject property. Furthermore, the two sales that she places the most weight on are in the immediate vicinity of the subject property and both are even in the subject's district, which negates the appraiser's analysis's criticisms. We find the evidence supports the claim that the property is over-assessed.


THE APPEAL BOARD ORDERS that the property located at 3910 Amick Avenue, Des Moines, Iowa, assessment be modified to a total of \$230,000; representing \$50,900 in land value and \$179,100 to the dwelling as of January 1, 2009.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other recordings pertaining to the assessment referred herein on the subject parcel shall be corrected accordingly.

Dated this 22 day of February, 2011.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Chair

Copies to:

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APPELLANT

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 2-22, 2010.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature [Signature]